

**Senate File 459 - Introduced**

SENATE FILE 459  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO SF 297)

**A BILL FOR**

1 An Act concerning employment of and merit system protection  
2 for administrative law judges, workers' compensation  
3 commissioners, and the administrator of the administrative  
4 hearings division of the department of inspections and  
5 appeals.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8A.412, subsection 11, Code 2015, is  
2 amended to read as follows:

3 11. Professional employees under the supervision of the  
4 attorney general, the state public defender, the secretary  
5 of state, the auditor of state, the treasurer of state, and  
6 the public employment relations board. However, employees of  
7 the consumer advocate division of the department of justice,  
8 other than the consumer advocate, and administrative law judges  
9 appointed or employed by the public employment relations board,  
10 are subject to the merit system.

11 Sec. 2. Section 8A.415, subsection 1, paragraph b, Code  
12 2015, is amended to read as follows:

13 b. If not satisfied, the employee may, within thirty  
14 calendar days following the director's response, file an  
15 appeal with the public employment relations board. The  
16 hearing shall be conducted in accordance with the rules of the  
17 public employment relations board and the Iowa administrative  
18 procedure Act, chapter 17A. Decisions rendered shall be  
19 based upon a standard of substantial compliance with this  
20 subchapter and the rules of the department. Decisions by the  
21 public employment relations board constitute final agency  
22 action. However, if the employee is an administrative law  
23 judge appointed or employed by the public employment relations  
24 board, the employee shall not file an appeal with the public  
25 employment relations board and the response of the director  
26 shall constitute final agency action.

27 Sec. 3. Section 8A.415, subsection 2, paragraph b, Code  
28 2015, is amended to read as follows:

29 b. If not satisfied, the employee may, within thirty  
30 calendar days following the director's response, file an appeal  
31 with the public employment relations board. The employee has  
32 the right to a hearing closed to the public, unless a public  
33 hearing is requested by the employee. The hearing shall  
34 otherwise be conducted in accordance with the rules of the  
35 public employment relations board and the Iowa administrative

1 procedure Act, chapter 17A. If the public employment relations  
2 board finds that the action taken by the appointing authority  
3 was for political, religious, racial, national origin, sex,  
4 age, or other reasons not constituting just cause, the employee  
5 may be reinstated without loss of pay or benefits for the  
6 elapsed period, or the public employment relations board  
7 may provide other appropriate remedies. Decisions by the  
8 public employment relations board constitute final agency  
9 action. However, if the employee is an administrative law  
10 judge appointed or employed by the public employment relations  
11 board, the employee shall not file an appeal with the public  
12 employment relations board and the response of the director  
13 shall constitute final agency action.

14 Sec. 4. Section 10A.801, subsection 3, paragraph a, Code  
15 2015, is amended to read as follows:

16 a. The department shall employ a sufficient number of  
17 administrative law judges to conduct proceedings for which  
18 agencies are required, by section 17A.11 or any other provision  
19 of law, to use an administrative law judge employed by the  
20 division. An administrative law judge employed by the division  
21 shall not perform duties inconsistent with the judge's duties  
22 and responsibilities as an administrative law judge and shall  
23 be located in an office that is separated from the offices of  
24 the agencies for which that person acts as a presiding officer.  
25 ~~Administrative~~ The administrator and all administrative law  
26 judges shall be covered by the merit system provisions of  
27 chapter 8A, subchapter IV.

28 Sec. 5. Section 86.2, subsection 1, paragraphs a and b, Code  
29 2015, are amended to read as follows:

30 a. Chief deputy workers' compensation commissioners for  
31 whose acts the commissioner is responsible, ~~who are exempt from~~  
32 who shall be appointed and serve pursuant to the merit system  
33 provisions of chapter 8A, subchapter IV, and who shall serve at  
34 the pleasure of the commissioner unless the commissioners are  
35 otherwise covered by a collective bargaining agreement.



1 relations board.

2 Code section 10A.801 is amended to provide that the  
3 administrator of the administrative hearings division of the  
4 department of inspections and appeals is covered by the merit  
5 system as provided in Code chapter 8A.

6 Code section 86.2 is amended to provide that chief deputy  
7 workers' compensation commissioners and deputy workers'  
8 compensation commissioners shall be appointed and serve  
9 pursuant to the merit system provision of Code chapter 8A  
10 unless the commissioners are otherwise covered by a collective  
11 bargaining agreement. Current law provides that chief deputy  
12 commissioners are exempt from the merit system and that all  
13 chief deputy and deputy commissioners serve at the pleasure of  
14 the workers' compensation commissioner.

15 Code section 96.6 is amended to provide that an  
16 administrative law judge employed by the department of  
17 workforce development for unemployment compensation cases shall  
18 be covered by the merit system provisions of Code chapter  
19 8A unless the judge is otherwise covered by a collective  
20 bargaining agreement.